

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Henrico County School District)	File No. SLD-209024
Richmond, Virginia)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: January 11, 2002

Released: January 14, 2002

By the Accounting Policy Division, Common Carrier Bureau:

1. Before the Accounting Policy Division (Division) is a Request for Review filed by Henrico County School District (Henrico), Richmond, Virginia, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Henrico seeks review of SLD's denial of its Funding Year 2 application for discounts under the schools and libraries universal service mechanism.² For the reasons discussed below, we deny Henrico's Request for Review and affirm SLD's decision.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its

¹ Letter from Charles Stallard, Henrico County Public Schools, to Federal Communications Commission, filed August 16, 2000 (Request for Review).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

technological needs and the services for which it seeks discounts.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ Approval of the application is contingent upon the filing of FCC Form 471, and funding commitment decisions are based on information provided by the school or library in this form.

3. On March 29, 2000, Henrico filed an FCC Form 471 for Funding Year 2 including ten funding requests, each seeking discounted internal connections.⁶ It did not file an FCC Form 470 in Funding Year 2.⁷ Henrico's FCC Form 471 referenced FCC Form 470 App. No. 952970000283996, a Funding Year 3 Form 470 that was posted to SLD's web site on December 20, 1999.⁸ On July 17, 2000, SLD rejected Henrico's Funding Year 2 application for discounts because Henrico had not specified an FCC Form 470 for Funding Year 2 in connection with its Funding Year 2 requests.⁹

4. In its Request for Review, Henrico concedes that it relied on a Funding Year 3 FCC Form 470 in support of its Funding Year 2 application.¹⁰ However, it argues that this should not be grounds for the rejection of its application, asserting that "[n]owhere in your correspondence, procedures or instructions does it stipulate that the 1999-2000 application must be based on a 1999-2000, 470 form."¹¹ It requests that its Funding Year 2 application be

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ FCC Form 471, Henrico County School District, filed March 29, 2000 (Henrico Form 471). The funding window for Funding Year 2 initially closed on April 6, 1999. See *Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-NEC.471.04-13-00.31900001, CC Dockets No. 96-45 and 97-21, Order, DA 01-1251, n.8 (Com. Car. Bur. rel. May 23, 2001). However, it was later determined that funds were available in excess of what had been requested by applicants who filed within the original window, and so, on March 1, 2000, SLD announced that it would re-open the filing window to permit additional applications. See *id.*; see also SLD web site, What's New (March, 2000), <<http://www.sl.universalservice.org/whatsnew/032000.asp#consideryr2>>. The re-opened window closed on March 31, 2000. *Id.*

⁷ Request for Review, at 1.

⁸ FCC Form 470, Henrico County School District, posted December 20, 1999.

⁹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Paul F. Kolmetz, Henrico County School District, dated July 17, 2000 (Rejection Letter).

¹⁰ Request for Review, at 1.

¹¹ *Id.*

evaluated based on its Funding Year 3 FCC Form 470, which does include a service request for internal connections.¹²

5. We reject Henrico's assertion that it may rely on an FCC Form 470 posted in Funding Year 3 in support of Funding Year 2 service requests. As was stated in SLD's Program Description, funding of discounts is on a fiscal year basis, beginning July 1st of each year and running through the following June 30, and thus, new FCC Form 470s and associated FCC Form 471s must be posted each year.¹³ Further, in each FCC Form 470, an applicant must specify the specific funding year for which it is applying for funds. Thus, it is necessarily presenting for competitive bidding a request for services provided only within that year, not subsequent or later years.¹⁴ As a result, an FCC Form 470 seeking services in one year cannot, as a general matter, be used to demonstrate that a request for discounts in another year has been subjected to competitive bidding.

6. There is an exception that allows applicants to rely in one year on a FCC previous year's FCC Form 470 where the bidding process resulted in a binding multi-year contract.¹⁵ However, this exception is not relevant here. In this case, Henrico seeks discounts for Funding Year 2 and Henrico is relying on an FCC Form 470 filed in the following year, Funding Year 3, not the previous year, Funding Year 1.¹⁶ Moreover, Henrico is seeking discounts for new contracts, not the subsequent years of a pre-existing multi-year contract. We conclude that, because Henrico relied on an FCC Form 470 seeking services in Funding Year 3 to support an application for services in Funding Year 2, SLD correctly rejected the application. Henrico's Request for Review must therefore be denied.

¹² *Id.*

¹³ See SLD Year 2 Program Description, at 12 (December 1998).

¹⁴ Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form, OMB 3060-0806 (September 1998) (Form 470 Instructions), at 4.

¹⁵ 47 C.F.R. § 54.511(c).

¹⁶ See FCC Form 470, Henrico County School District, App. No. 283996952970000, filed December 20, 1999; Henrico Form 471, at 2-3.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Henrico County Public Schools, Richmond, Virginia, on August 16, 2000 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark G. Seifert", written over the printed name.

Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau